



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*JPW*

APPLICANT: Bergersen

ATTY DOCKET NO.: BER-P-03-052

SERIAL NO.: 10/665,326

GROUP ART UNIT: 3732

FILING DATE: September 18, 2003

EXAMINER: Unassigned

TITLE: "A DENTAL APPLIANCE HAVING AN ALTERED VERTICAL THICKNESS BETWEEN AN UPPER SHELL AND A LOWER SHELL WITH AN INTEGRATED HINGING MECHANISM TO ATTACH AN UPPER SHELL AND A LOWER SHELL AND A SYSTEM AND A METHOD FOR TREATING MALOCCLUSIONS"

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT TRANSMITTAL LETTER

Mail Stop DD  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

S I R:

Submitted herewith is an Information Disclosure Statement for consideration in the above-identified application. This Information Disclosure Statement is submitted.

☒ Within 3 months (1) of filing date of a national application; (2) of date of entry of the national stage as set forth in 37 CFR \$1.491 in an international application; or (3) before the mailing date of a first Office Action on the merits, whichever occurs last. (No fee is required.)

☐ After the mailing date of a first Office Action but before (1) mailing of a final action under 37 CFR \$1.113; or (2) mailing of a notice of allowance under \$1.311, whichever occurs first.

☐ Payment for the fee set forth in 37 CFR \$1.17(p) accompanies this submission; or

☐ The certification specified in 37 CFR \$1.97(e) is made below. (No fee is required.)

☐ After the mailing of (1) a final action under 37 CFR \$1.113; or (2) a notice of allowance under 37 CFR \$1.311 whichever occurs first, but before payment of the issue. The certification specified in 37 CFR \$1.97(e) is made below. The Commissioner hereby is petitioned to consider the Information Disclosure Statement accompanying this submission. Payment for the Petition fee set forth in 37 CFR \$1.17(i)(1) accompanies this submission.

☐ The undersigned counsel for applicant(s) hereby certifies each item of information identified in the Information Disclosure Statement was cited in a communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.

☐ The undersigned counsel for applicant(s) hereby certifies that no item of information contained in the Information Disclosure Statement was cited in a communication from a foreign Patent Office in a counterpart foreign application, or to the knowledge of the undersigned, after making reasonable inquiry, was known to any individual designated in 37 CFR \$1.56(c) more than three months prior to the filing of the statement.

☐ A check in the amount of \$\_\_\_\_\_ to cover any required fee is enclosed.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 50-0595. *A duplicate of this sheet is enclosed for this purpose.*

*[Signature]*

(Reg. No. 35,018)

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When phoning re this  
application, please call  
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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop DD, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July *18*, 2004.

*[Signature]*

(Reg. No. 35,018)

BRIAN M. MATTSON



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

APPLICANT: Bergersen ATTY. DOCKET NO.: BER-P-03-052

SERIAL NO.: 10/665,326 GROUP ART UNIT: 3732

FILING DATE: Sep. 18, 2003 EXAMINER: Unassigned

INVENTION: "A DENTAL APPLIANCE HAVING AN ALTERED VERTICAL THICKNESS BETWEEN AN UPPER SHELL AND A LOWER SHELL WITH AN INTEGRATED HINGING MECHANISM TO ATTACH AN UPPER SHELL AND A LOWER SHELL AND A SYSTEM AND A METHOD FOR TREATING MALOCCLUSIONS"

Mail Stop DD  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

SIR:

In accordance with the provisions of 37 CFR §1.56, Applicant requests that citation and examination of the references identified on the attached PTO-1449 form, copies of which of which are enclosed herewith, be made during the course of examination of the above-mentioned application for U.S. patent. No fee is due for submission of this statement. If, however, any fees are due and owing in view of this communication, please charge Deposit Account No. 50-0595. ***A duplicate of this sheet is included for this purpose.***

I. SUBMITTED REFERENCES

A. U.S. PATENTS

<u>PATENT NO.</u>	<u>PATENTEE</u>	<u>ISSUE DATE</u>
3,724,075	Kesling	Apr. 3, 1973

<u>PATENT NO.</u>	<u>PATENTEE</u>	<u>ISSUE DATE</u>
3,837,081	Kesling	Sept. 24, 1974
4,073,061	Bergersen	Feb. 14, 1978
4,105,032	Blomstedt	Aug. 8, 1978
4,139,944	Bergersen	Feb. 20, 1979
4,370,129	Huge	Jan. 25, 1983
4,371,336	Hilleman	Feb. 1, 1983
4,396,373	Dellinger	Aug. 2, 1983
4,568,280	Ahlin	Feb. 4, 1986
4,591,341	Andrews	May 27, 1986
4,784,605	Bergersen	Nov. 15, 1988
4,799,884	Bergersen	Jan. 24, 1989
4,830,612	Bergersen	May 16, 1989
4,919,612	Bergersen	Apr. 24, 1990
4,983,334	Adell	Jan. 8, 1991
4,986,751	Bergersen	Jan. 22, 1991
5,028,231	Hall	Jul. 2, 1991
5,037,294	Bergersen	Aug. 6, 1991
5,037,295	Bergersen	Aug. 6, 1991
5,042,506	Liberati	Aug. 27, 1991
5,328,362	Watson et al.	Jul. 12, 1994
5,334,218	Johnson	Aug. 2, 1994
5,338,190	Tregillis	Aug. 16, 1994
5,645,420	Bergersen	Jul. 8, 1997

<u>PATENT NO.</u>	<u>PATENTEE</u>	<u>ISSUE DATE</u>
5,683,244	Truax	Nov. 4, 1997
5,779,470	Kussick	Jul. 14, 1998
5,814,074	Branam	Sep. 29, 1998
5,816,799	Parker	Oct. 6, 1998
5,876,199	Bergersen	Mar. 2, 1999
5,882,192	Bergersen	Mar. 16, 1999
5,911,576	Ulrich et al.	Jun. 15, 1999
5,975,893	Chishti et al.	Nov. 2, 1999
6,299,440	Phan et al.	Oct. 9, 2001
6,454,565	Phan et al.	Sep. 24, 2002
6,505,625	Uenishi	Jan. 14, 2003

**B. INTERNATIONAL APPLICATION CORRESPONDING TO  
ABOVE-MENTIONED APPLICATION FOR U.S. PATENT**

<u>INTERNATIONAL APPLICATION NO.</u>	<u>APPLICANT</u>	<u>FILING DATE</u>
PCT/US03/29667	Bergersen	Sep. 19, 2003

**C. INTERNATIONAL WRITTEN OPINION FOR CORRESPONDING  
INTERNATIONAL APPLICATION**

<u>INTERNATIONAL APPLICATION NO.</u>	<u>APPLICANT</u>	<u>MAILING DATE</u>
PCT/US03/29667	Bergersen	Jun. 16, 2004

**D. INTERNATIONAL SEARCH REPORT FOR CORRESPONDING  
INTERNATIONAL APPLICATION**

<u>INTERNATIONAL APPLICATION NO.</u>	<u>APPLICANT</u>	<u>MAILING DATE</u>
PCT/US03/29667	Bergersen	Dec. 29, 2003

**II. REMARKS**

A copy of the corresponding International Application is not

included with this Information Disclosure Statement because the text of the application is identical to the above-mentioned U.S. Application, U.S. Serial No. 10/665,326. Copies of the other references together with form PTO-1449 are submitted herewith.

In the Written Opinion for the corresponding International Application, the International Preliminary Examining Authority opined that Claims 1, 2, 4, 14, 17, 19 and 20 lack novelty under PCT Article 33(2) as being anticipated by *Bergersen*, U.S. Patent No. 5,876,199. Further, the International Preliminary Examining Authority opined Claims 8, 10 and 11 lack novelty under PCT Article 33(2) as being anticipated by *Bergersen*, U.S. Patent No. 4,784,605. In addition, the International Preliminary Examining Authority opined that Claim 3 lacks an inventive step under PCT Article 33(3) as being obvious over *Bergersen*, U.S. Patent No. 5,876,199 in view of *Hall*, U.S. Patent No. 5,028,231. Still further, the International Preliminary Examining Authority opined that Claims 5 and 6 lack an inventive step under PCT Article 33(3) as being obvious over *Bergersen*, U.S. Patent No. 5,876,199 in view of *Kesling*, U.S. Patent No. 3,837,081. The International Preliminary Examining Authority also opined that Claim 7 lacks an inventive step under PCT Article 33(3) as being obvious over *Bergersen*, U.S. Patent No. 5,876,199 in view of *Adell*, U.S. Patent No. 4,983,334.

Furthermore, the International Preliminary Examining

Authority opined that Claim 9 lacks an inventive step under PCT Article 33(3) as being obvious over *Bergersen*, U.S. Patent No. 4,784,605 in view of *Bergersen*, U.S. Patent No. 5,876,199; Claim 12 lacks an inventive step under PCT Article 33(3) as being obvious over *Bergersen*, U.S. Patent No. 4,784,605 in view of *Kesling*, U.S. Patent No. 3,724,075; and Claim 16 lacks an inventive step under PCT Article 33(3) as being obvious over *Bergersen*, U.S. Patent No. 5,876,199 in view of *Kussick*, U.S. Patent No. 5,779,470.

The International Preliminary Examining Authority opined that Claims 13, 15 and 18 meet the criteria set out in PCT Article 33(2)-(4).

In the International Search Report for the corresponding International Application, the International Searching Authority cited *Bergersen*, U.S. Patent No. 5,876,199; *Bergersen*, U.S. Patent No. 4,784,605; *Ulrich et al.*, U.S. Patent No. 5,911,576; *Kesling*, U.S. Patent No. 3,837,081; *Adell*, U.S. Patent No. 4,983,334; *Kesling*, U.S. Patent No. 3,724,075; and *Kussick*, U.S. Patent No. 5,779,470.

In view of the foregoing, Applicant submits that all claims of the application are patentably distinguishable over the teachings of the above references, taken singly or in combination. Early consideration of the application is, therefore, requested.



Respectfully submitted,

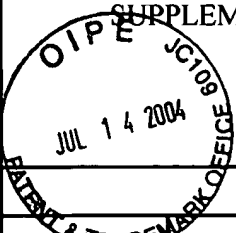
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ATTORNEY FOR APPLICANT

**CERTIFICATE OF MAILING**

I hereby certify that this **SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT, PTO-1449, THIRTY-FIVE (35) REFERENCES, INTERNATIONAL WRITTEN OPINION AND INTERNATIONAL SEARCH REPORT FOR INTERNATIONAL APPLICATION NO. PCT/US03/16725** are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop DD, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on July 12, 2004.

Brian M. Mattson (Reg. No. 35,018)

Form PTO 1449		U.S. Department of Commerce Patent and Trademark Office			Docket No. BER-P-03-052		Serial No. 10/665,326	
 <p><b>SUPPLEMENTAL LIST OF ART CITED BY APPLICANT</b> (Use several sheets if necessary)</p>					Applicant Bergersen			Group Art Unit 3732
					Filing Date September 18, 2003			
<b>U.S. PATENT DOCUMENTS</b>								
Examiner's Initials		Document Number	Date	Name	Class	Subclass	Filing Date If appropriate	
		3,724,075	Apr. 3, 1973	Kesling				
		3,837,081	Sept. 24, 1974	Kesling				
		4,073,061	Feb. 14, 1978	Bergersen				
		4,105,032	Aug. 8, 1978	Blomstedt				
		4,139,944	Feb. 20, 1979	Bergersen				
		4,370,129	Jan. 25, 1983	Huge				
		4,371,336	Feb. 1, 1983	Hilleman				
		4,396,373	Aug. 2, 1983	Dellinger				
		4,568,280	Feb. 4, 1986	Ahlin				
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		4,983,334	Jan. 8, 1991	Adell				
		4,986,751	Jan. 22, 1991	Bergersen				
		5,028,231	Jul. 2, 1991	Hall				
<b>FOREIGN PATENT DOCUMENTS</b>								
		Document Number	Date	Country	Class	Subclass	Translation	
							Yes	No
		PCT/US03/29667	Sep. 19, 2003	International Application (PCT)				
<b>OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)</b>								
		Written Opinion for PCT/US03/29667 mailed Jun. 16, 2004						
		Search Report for PCT/US03/29667 mailed Dec. 29, 2003						
Examiner			Date Considered					
<p><b>*EXAMINER:</b> Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant..</p>								



Form PTO 1449      U.S. Department of Commerce Patent and Trademark Office				Docket No. BER-P-03-052		Serial No. 10/665,326	
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				Filing Date September 18, 2003		Group Art Unit 3732	

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 JUL 14 2004  
 PATENT & TRADEMARK OFFICE

U.S. PATENT DOCUMENTS							
Examiner's Initials	Document Number	Date	Name	Class	Subclass	Filing Date If appropriate	
	5,037,294	Aug. 6, 1991	Bergersen				
	5,037,295	Aug. 6, 1991	Bergersen				
	5,042,506	Aug. 27, 1991	Liberati				
	5,328,362	Jul. 12, 1994	Watson et al.				
	5,334,218	Aug. 2, 1994	Johnson				
	5,338,190	Aug. 16, 1994	Tregillis				
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FOREIGN PATENT DOCUMENTS							
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						Yes	No

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)		

Examiner	Date Considered
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